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7

8 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
9

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 JEFFREY A. MARTINEZ, individually,)
14 and as Trustee of the Martinez Family Trust;)
DOLORES M. MARTINEZ, individually and)
15 as Trustee for the Martinez Family Trust;)
THE MARTINEZ FAMILY TRUST;)
16 MARTINEZ & ASSOCIATES, INC.)
(NV20041370692); MARTINEZ &)
17 ASSOCIATES INC. (NV20181033912);)
SIERRA MORTGAGE CORPORATION;)
18 FIDELITY NATIONAL TITLE; CHASE)
MORTGAGE COMPANY; JP MORGAN)
19 CHASE BANK NATIONAL)
ASSOCIATION; RHODES RANCH)
20 ASSOCIATION; and REPUBLIC SILVER)
STATE INC., DBA, REPUBLIC)
21 SERVICES,)

22 Defendants.)
23)
24)
25)

Case No.: 2:19-cv-1986-GMN-DJA

**UNITED STATES' MOTION TO
EXTEND STAY IN LIGHT OF
REQUIREMENTS FOR
SETTLEMENT AND ORDER**

(Fifth Request)

1 The United States of America has made four requests for limited stays to facilitate
2 settlement discussions with taxpayers Jeffrey and Dolores Martinez. The last stay will end on
3 August 28, 2020. (*See* ECF No. 37 at 4). It had previously become clear that settlement is
4 unlikely unless the Martinezes file certain tax returns that are not at issue in the suit, but that are
5 currently delinquent. The Martinezes have now submitted many of the missing returns and
6 represent that they working on others. (At the time of the last stay request, the IRS had extended
7 the deadlines for filing 2019 returns in light of the COVID-19 pandemic.) In the interests of
8 facilitating a resolution, the United States respectfully asks to continue the stay for 30 days. If
9 this motion is granted, the United States will inform the Court of the status of the matter within
10 30 days of the order.

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 *Background*

13 This is a federal tax case. The United States seeks a judgment against taxpayers Jeffrey
14 and Dolores Martinez, and against two corporations associated with them, for various federal tax
15 liabilities. The United States also seeks to foreclose its tax liens against certain real property to
16 help satisfy the judgment.

17 The United States also named as defendants other parties that might assert a lien or other
18 claim against the property, pursuant to 26 U.S.C. § 7403(b) (“Action to enforce lien or to subject
19 property to payment of tax”). That way, those parties’ claims to the property (if any) could be
20 adjudicated if and when the Court determines that the property should be foreclosed. It is
21 common in such cases for the United States to reach stipulations with other claimants as to lien
22 priority, to the extent they do not disclaim any interest.

23 If the matter settles without a foreclosure, the other lienholders would not need to be paid
24 out. In any event, to date only one of the potential lienholders, the Rhodes Ranch Association,
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1 has answered the complaint. (ECF No. 4).¹ Another, Fidelity National Title, has disclaimed any
2 interest. (See ECF No. 7). Defendants JP Morgan Chase Bank National Association and Chase
3 Bank National Association (together, the “Chase defendants”), and the United States have
4 reached a stipulation concerning lien priority as between them. (See ECF No. 20 (Order
5 approving stipulation)). (The Chase defendants currently control the mortgage loan that was
6 initially issued by defendant Sierra Mortgage Corporation). Defendant Republic Silver State Inc.
7 has been served but has not yet appeared, and has not contacted the United States. Finally, the
8 United States filed a notice of dismissal concerning defendants Nevada Mortgage Assistance
9 Company and the Cooper Castle Law firm, and the Clerk has terminated them from the case.

10 The litigation would therefore focus on the Martinezes and their business. Neither of the
11 Martinezes, or the corporations, have appeared. The United States served the Martinezes,
12 individually and as representatives of their business, on December 27, 2019. Their time to
13 respond to the complaint thus expired on January 17, 2020, under Fed. R. Civ. P. 12(a)(1)(A)(i).

14 Ordinarily the United States would be moving for an entry of default and a default
15 judgment. However, the Martinezes have reached out to the undersigned counsel, and the parties
16 are discussing a possible settlement. The Martinezes made a formal offer and provided certain
17 financial information that the United States had requested. However, it has become clear that the
18 United States cannot properly evaluate the offer, including the Martinezes’ ability to pay, unless
19 and until the Martinezes submit certain tax returns that are currently outstanding.

20 It is important that the Martinezes come into compliance with their tax reporting
21 obligations, including for the most recent tax year. The Martinezes have now submitted many of
22 the missing returns, and have represented that they are preparing others, including for 2019.

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25 ¹ Counsel for the United States conferred with counsel for Rhodes Ranch Association by e-mail,
on August 27, 2020, and the association does not oppose a continued stay.

1 Their submission of the missing returns is an important consideration in evaluating their
2 settlement offer.

3 The United States is prepared to proceed with active litigation, including seeking entries
4 of default, if the Court were to deny this request. However, the United States submits that
5 extending the stay would likely facilitate the potential resolution, and may conserve both the
6 parties' and the Court's resources. Under the circumstances, and given the Martinezes'
7 willingness to participate in the discussions and submit missing returns, the United States
8 continues to believe that the parties' efforts are best focused on the preparation and review of
9 outstanding returns, and in reaching a resolution.

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Request for Relief

WHEREFORE, United States respectfully seeks to stay the matter for an additional 30 days from the Court's order on this motion, to facilitate settlement discussions, with the United States to inform the Court regarding the case's status with 30 days of the order on this motion. The United States reserves the right to seek an entry of default or default judgment after 30 days if the negotiations do not resolve the matter.

Dated this 27th day of August, 2020.

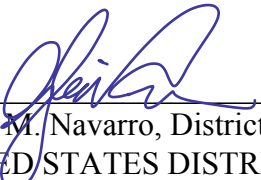
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IT IS SO ORDERED.

Dated this 27 day of August, 2020.



Gloria M. Navarro, District Judge
UNITED STATES DISTRICT COURT

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing is made this August 27, 2020, via the Court's ECF system to all current parties who have appeared electronically. In an abundance of caution, the United States is sending this motion to the persons listed below, via U.S. Mail. Due to in-office staffing limitations related to the Covid-19 pandemic, the mailing may take two business days to send.

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/s/ E. Carmen Ramirez
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